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**FILED**  
DISTRICT COURT OF GUAM  
APR 18 2006  
MARY L.M. MORAN  
CLERK OF COURT

11 DISTRICT COURT OF GUAM  
12 TERRITORY OF GUAM

14 MARY GRACE SIMPAO, CHRISTINA  
NAPUTI, and JANICE CRUZ, on behalf of  
15 themselves and a class of others similarly  
situated,

17 Plaintiffs,

18 vs.

19 GOVERNMENT OF GUAM,

20 Defendant.

CIVIL CASE NO. 04-00006

SIMPAO PLAINTIFFS' STATUS  
REPORT

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**ORIGINAL**

## I. SUMMARY

At the request of the Defendant, this Court vacated the briefing schedule for appointment of lead counsel, to allow the parties to "conduct a global mediation" of these three consolidated actions. (March 21, 2006 Order). The mediation was scheduled and conducted on Guam on April 6-7 with April 8<sup>th</sup> reserved as a contingency day. Former Judge William Cahill from JAMS' San Francisco Office facilitated.

As to the *Simpao* Plaintiffs, no global settlement was reached. As such, the *Simpao* Plaintiffs request the Court reset a briefing schedule for lead counsel.

## II. BACKGROUND

In his request for a stay to allow for a global settlement conference the Governor of Guam stated he based his request "upon the recent Orders of the Court in these three cases and the Court's recent remarks at the hearing held on March 14, 2006 . . . ." (Gov.'s Request for Settlement Conf.) In light of the Court's comments the Governor had concluded "it appears the fastest approach to this issue may be global settlement talks *with all parties to the three actions.*" *Id.*

The Court's remarks the Governor referred to include:

" . . . I would expect [Judge Martinez] to order you to go to a settlement conference on all three cases in the immediate future. And that will have the effect of doing what I know you all want to do, which is to serve the interests of your class. . . . I can tell you that the Court is not going to be inclined to settle one of these actions and leave the other two floating out there, because it's not a good use of judicial resources, it has the possibility of inconsistent results, and frankly, it's not fair to the taxpayers, some of whom may be in that class and others of whom are excluded from that class. If there's going to be a settlement, then it ought to be a global settlement that handles in an evenhanded manner the rights of all of the members of the class."

(Record of Proceedings at p.19-20, J. Robart, Status Conference, Mar. 14, 2006).

1 Notably however, in its motion requesting the settlement conference, Defendant  
2 candidly acknowledged "the Governor's highest priority is to be able to proceed with the  
3 process of obtaining approval of the [existing proposed] *Santos* settlement" and that "[t]he  
4 Governor still respectfully maintains his position that the best course is that the *Torres* and  
5 *Simpao* cases be stayed and the *Santos* settlement proceed." (Gov.'s Request for Settlement  
6 Conf. at p.1[sic], lns. 9-10 & fn.1 respectively).

7 Despite such language the *Simpao* Plaintiffs believed the mediation would be conducted  
8 in good faith. Counsel, two of whom traveled to Guam from Seattle, Washington, attended the  
9 mediation and contributed their share of a mediation bill that was over \$60,000.

10 However, Defendants refused to alter their position regarding the existing settlement  
11 and, on the morning of the second day of mediation, Defendants informed the *Simpao* Plaintiffs  
12 Group they had no intention to negotiate with them.

13 Given global settlement is no longer a possibility, and apparently never was, the *Simpao*  
14 Plaintiffs respectfully request this Court reset a briefing schedule for appointment of lead  
15 counsel.

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17 DATED this 18th day of April, 2006.

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## CERTIFICATE OF SERVICE

I, JAMES L. CANTO II, certify that I caused a copy of the foregoing document here filed to be served on the following individuals or entities on April 18, 2006, via hand delivery at the following addresses:

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Respectfully submitted this April 18, 2006

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